IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WA.No. 1941 of 2007

AGAINST THE JUDGEMENT IN WPC.15534/2007 Dated 25/06/2007
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APPELLANT: 3RD PARTY:

K.T.KURUVILA,
KADICHEENI HOUSE,
KAVANAD ROAD, VADAMA VILLAGE,
P.O.MALA, THRISSUR DISTRICT.

BY ADV. SRI.K.RAMAKUMAR
SRI.R.JAYACHANDRAN

RESPONDENTS: PETITIONER & RESPONDENTS 1 TO 4:
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1. P.A.RADHAKRISHNAN,
FL-3 LICENSEE AND JOINT MANAGING PARTNER,
APSARA TOURIST HOME,
RAILWAY STATION ROAD, SHORNUR.

2. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF TAXES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE COMMISSIONER OF EXCISE,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.

4. THE ASSISTANT EXCISE COMMISSIONER,
PALAKKAD.

5. THE TAHSILDAR,
MUKUNTHAPURAM,
THRISSUR DISTRICT.

R1 BY ADV. SRI.GEORGE POONTHOTTAM
R2 TO R5 BY ADDITIONAL ADVOCATE GENERAL
SRI.VENGANNORE CHANDRASEKHARAN NAIR
GOVERNMENT PLEADER SRI.M.P.SREEKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 11/12/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.1941 of 2007

Dated, this the 11th day of December, 2007

JUDGMENT

K.M.Joseph, J.

This appeal is filed by one Sri.K.T.Kuruvila by leave of the Court. The writ petition was filed seeking a direction to consider the application of the writ petitioner for renewal of a FL-3 licence. The contention taken was that, there are abkari arrears and unless the writ petitioner pays 50% of the arrears due, the application for renewal of licence cannot be considered. The contention taken by the writ petitioner was that since the entire arrear was realised by sale of properties of one of the former partners of the petitioner, (the appellant) there is no impediment for renewal of the licence. Learned Single Judge taking note of the fact that he had vacated the interim order of stay in W.P.(C) No.4681 of 2007 stated that there is no impediment in considering the application of the writ petitioner for renewal of FL-3 licence. The writ petition was disposed of directing the third respondent to consider the application filed by the petitioner for renewal of FL-3 licence.

(2). During the pendency of the appeal, the Commissioner of Land Revenue, taking note of the fact that, due to miscommunication of the fact that the stay has been extended by another week was not known to the District Collector, the sale was set aside.

(3). In the light of the subsequent development namely the fact that by order dated 5-12-2007, the Commissioner of Land Revenue has set

aside the sale conducted by the District Collector, we would think that the very basis of the order of the learned Single Judge would not continue. We feel that the appeal is to be disposed of reserving liberty to the writ petitioner to challenge the order dated 5-12-2007 passed by the Commissioner of Land Revenue.

(4). Accordingly, the writ appeal is disposed of reserving liberty to the writ petitioner to challenge the order of the Commissioner of Land Revenue dated 5-12-2007.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS